

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Helena Headquarters
1420 East 6th Avenue
Helena, MT 59620

OCTOBER 7, 2004

Commission Members Present: Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; John Lane; Mike Murphy; John Brenden.

Fish, Wildlife & Parks Staff: Director Jeff Hagener; FWP personnel.

Guests: Representative Jim Keane; Jerry Driscoll; Sue Dalbey, Dalbey Resources LLC; Robin Cunningham, FOAM; Russ Copeland, MOGA; Mary Ellen Schnur, MOGA; Larry Copenhaver, MWF; Wayne Moore; Jay Bodner, MSGA; Nelson Wert; Glenn Hockett, GWA and WWP; Thomas Linfield, Department of Livestock.

Topics of Discussion:

- 1. Opening - Pledge of Allegiance**
 - 2. Approval of September 9, 2004 Commission Minutes**
 - 3. Approval of Commission Conference Call Minutes of August 30, 2004**
 - 4. Approval of Commission Expenses through September 30, 2004**
 - 5. Recognition Award to Neal Whitney for 20 Years of Service to FWP**
 - 6. Proposal to Grant Easement to Great Falls Development Authority by PPL Montana across the Lewis & Clark Heritage Greenway –Informational**
 - 7. Dutchman Wetland Proposal - Informational**
 - 8. River Recreation Administrative Rules – Final**
 - 9. 2004-2005 Fishing Regulations – Final**
 - 10. 2004 Future Fisheries Blackfoot River Project – Final**
 - 11. Clark Canyon Reservoir Regulation Change – Tentative**
 - 12. Bison Hunting Decision Notice and Final Environmental Assessment – Endorsement**
 - 13. Bison Hunting Season Setting Recommendations – Tentative**
 - 14. Public Opportunity to Address Issues Not Discussed at this Meeting**
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- 1. Opening - Pledge of Allegiance. Chairman Dan Walker** called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance.

2. Approval of September 9, 2004 Commission Minutes. Murphy stated he would like a minor wording addition in the Lone Pine Game Preserve topic that states if homeowners desire firearms restrictions, they should promote them rather than the Department, and Brenden added the statement that he does not want to see the Department set precedents limiting the introduction of warm water species west of the Continental Divide.

Action: Murphy moved and Brenden seconded the motion to approve the minutes of the September 9, 2004 meeting with the inclusion of the two amendments. Motion carried.

3. Approval of Commission Conference Call Minutes of August 30, 2004.

Action: Murphy moved and Brenden seconded the motion to approve the minutes of the August 30, 2004 conference call meeting. Motion carried.

4. Approval of Commission Expenses through September 30, 2004.

Action: Lane moved and Murphy seconded the motion to approve the Commission expenses through September 30, 2004 as presented. Motion carried.

5. Recognition Award to Neal Whitney for 20 Years of Service to FWP. Director Hagener presented a Rainbow Trout plaque to Neal Whitney with his congratulations for his twenty years of dedicated service to FWP. Director Hagener recognized Neal for his many achievements and thanked him for his hard work and dedication.

6. Proposal to Grant Easement to Great Falls Development Authority by PPL Montana across the Lewis & Clark Heritage Greenway – Informational. Doug Monger, FWP Parks Division Administrator, said that in 1999, the Montana Power Company (now PPL Montana), donated a 2400-acre conservation easement, as well as 600 acres of fee title land on the north side of the Missouri River across from Giant Springs. The Great Falls Development Authority (GFDA) is proposing to develop an industrial park, part of which is the Froedert Malting Plant, which has been approved for a water rights lease agreement. The GFDA now needs a three to five acre easement through the Lewis & Clark Heritage Greenway easement, held by FWP, to allow for a railroad right-of-way to provide the delivery of grain and commodities. The Environmental Assessment is being completed, and will be presented for public comment. Monger added that FWP is supportive of this proposal.

Monger said that the GFDA would like a decision in the very near future. If timing does not coordinate with their needs, Monger suggested that a decision could perhaps be made via a Commission conference call. When Walker asked why this project is now coming up, Monger replied that FWP only recently learned of it. Hagener added that it may be in part due to coordination with PPL as well.

Representative Jim Keane stated that he has followed this issue since its inception. He expressed concern that the Commission already granted the decision for the water rights easement, and now there will be a second easement. The water easement to the Malting Plant was not to be a permanent easement, but will become permanent if a second easement now goes to the railroad. He said there are many questions that need to be answered. Will there be interference with the wildlife? Is money in place for the railroad easement? Is there going to be mitigation? He said a telephone conference call would not be appropriate for a decision of this magnitude – more people need to be included in the decision. There will be impacts.

Brenden commented there doesn't seem to be an overwhelming amount of people from Great Falls against this project. Walker said this is for information only today, and he added that it's unusual for those who are great champions of labor to lobby against projects that create jobs. Walker commended staff for their work on this project. Mulligan explained to Representative Keane that Commission conference calls do not eliminate public opportunity to comment. Conference calls are not in lieu of public comment. Public comments are taken prior to decisions, and he added that comments are generally not taken during Finals Decisions. Monger encouraged Representative Keane to present his comments during the official comment period.

7. Dutchman Wetland Proposal - Informational. Larry Peterman, FWP Field Operations Chief, explained that this project has evolved into a much different project than was originally presented to the Commission. Peterman presented an synopsis of the project via a Power Point presentation designed by Eric Reiland, FWP Region 2 Fisheries Biologist.

This is a superfund site that went to trial in 1997. The Consent Decree for the Natural Resources Damage settlement in the Clark Fork River Basin, in 1999, included \$3.2 million dollars specifically earmarked for wetland and riparian restoration. The State of Montana is required to create up to 400 acres of restored or enhanced wetlands in the Clark Fork Basin, approved by USFWS, within 10 years of the effective date of the Consent Decree. Atlantic Richfield Company (ARCO) also has a court imposed restoration requirement.

This proposed project is for the acquisition and restoration of a site near Anaconda entitled the Dutchman Wetland Complex. The proposal is for ARCO to acquire the property, then donate the 3,782 acre wetland complex to FWP in exchange for restoration of this complex and Willow Creek and Warm Springs Creek. FWP would also acquire senior water rights associated with this property, and the site would be managed as a WMA in perpetuity. ARCO and EPA would release FWP from any superfund liability associated with this property.

The public will be provided the opportunity to comment during the MEPA process as well as at Commission and Land Board meetings.

8. River Recreation Administrative Rules – Final. Charlie Sperry, FWP River Recreation Management Specialist, presented a synopsis of the statewide river management public hearings and the comment period regarding the administrative rules. Seventy written comments were received, and of the sixty-eight people who attended the ten hearings, twenty-five testified. Based on comments received through these media, the Department reviewed the rules again, and now recommend the following changes.

RULE II (ARM 12.11.405) Policy Statement Concerning River Recreation Rules.

#6. Replace the word “should” with “shall” and add “proposed” where it says ...and those affected by river recreation *shall* be full and integral partners in the development of *proposed* management plans or rules.

These amendments are designed to ensure that the Commission appoints an advisory committee when developing the proposed management plan.

Bob Lane added later that his advice would be to add the words “given an opportunity to be full and integral partners” to the rule itself so it is stipulated.

RULE III (ARM 12.11.410) River Recreation Management Plans and Rules Generally.

#6. Add the word “Tribal” as it was inadvertently left out.

RULE IV (ARM 12.11.415) River Recreation Management Plans and Rules: Department Responsibilities.

#5. Replace ...“criteria outlined in (4) (a) through (4) (d)” with “information and analysis developed in (4)”...

This amendment will now include section “e”, the citizen advisory committee recommendations. The word “tribal” was also included as due to an oversight it was not previously included.

RULE VI (ARM 12.11.425) Creation of Citizen Advisory Committees.

#1. Add “The department shall also establish a citizen advisory committee to consider changes to river recreation management plans or to consider amendments to river recreation rules if the proposed changes or amendments are anticipated to be of significant enough interest to the public to benefit from the participation of a citizen advisory committee.”

This sentence was included based on public concern that the citizen committee would be appointed at the front end of the process, but might not be involved when amendments are made to the management plans or when rules are drafted.

#2. Add words “through a public process” where the rules says ...In considering appointments the director, *through a public process*, shall:...

This addition was made in response to several comments requesting that it be made clear that the public would be involved and be provided an opportunity to participate, assuring credibility and integrity of the citizen advisory committees with as little bias as possible.

RULE IX (ARM 12.11.440) Fixed Allocation.

#3 – new section which reads “*If a fixed allocation system is adopted for a river, the commission may change the amount of use allocated to a service provider and no property right attaches to that use.*”

This clarifies that if river use is allocated to a provider, and river conditions change, the amount of use allocated to that provider may be changed as well, and it is now stipulated that no property rights are attached to usage.

Walker asked that since some people allege that river use is bought and sold between outfitters, how can it be said there are no property rights. Bob Lane, FWP Legal Counsel, said there is no denying that there is a defacto interest between businesses, however this will alleviate difficulty in allocation changes, and assures persons cannot argue that something is being taken away from them. Lane said this statement is important to the integrity of the rules. He said the Commission can change allocations in types of river management, and they will not be restricted by past allocations.

RULE XI (ARM 12.11.450) Transferrability of River Use Days.

#1. Add words to this section where it reads “...the transfer of river use days shall comply with 37-47-310(4), MCA and shall not be prohibited....”

This wording was added in response to comments requesting clarification that the transfer of river user’s businesses is acceptable as long as they are within the legal requirements.

RULE XII (ARM 12.11.455) River Recreation Management Planning Manual.

#3 – new section which reads *“The department and its citizen advisory committees must consider the river recreation planning manual when developing a river recreation management plan or recommending river recreation rules to the commission.”*

Sperry said the intention of this amendment is to assure that once the planning manual has been developed, that it be utilized and not merely shelved. This also assures that the recommendations made by the committee are included, and not lost.

Mulligan commended Sperry on his hard work in pulling this rule together, and said he is ready to support it. Brenden commended Sperry as well, but feels people need to take responsibility for themselves.

Action: Mulligan moved and Murphy seconded the motion to adopt the river recreation management administrative rules, including the recommended amendments, as proposed by the Department. Motion carried. Four in favor – one opposed (Brenden). Four to one.

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In accordance with these rules, Hagener said Region 3 has gone through the process of recommending appointees for a citizen advisory committee for the Beaverhead and Bighole Rivers. Hagener said he is advising the Commission of these recommended appointees prior to appointment to allow the Commission to comment. Pat Flowers, FWP Region 3 Supervisor, said they looked at interest categories and experience from which they laid out a matrix of the applicants. They attempted to get a mix of the criteria they were looking for, and appear to have achieved the objectives with these recommendations.

**9. 2004-2005 Fishing Regulations – Final. Chris Hunter, FWP Fisheries Division Administrator,** said few comments were received following the tentatives that were presented to the Commission in August.

**Karen Zackheim, FWP Fisheries Management Bureau Chief,** noted that changes to the regulations were mainly to improve definitions, and to clarify bait regulations, that major revisions will not be made until 2007. The comment period generated only a few negative comments, and they were relative to stocking warm water species, which requires the purchase of the warm water game fish stamp. The Department still supports the change.

Zackheim said there is only one recommended regulation change suggested from the tentatives, and that is regarding Paddlefish. She said enforcement would like to assure that anglers know that they DO need to retain a tagged paddlefish with their license, that they must retain possession, and cannot give it to someone else. The recommendation is to offer it to the public for further comment.

Zackheim said two new stipulations to the regulations would be added to the Special Paddlefish Regulations section as follows:

\* *Paddlefish must remain in the possession of the angler licensed and permitted to tag the fish until the fish has been transported to the angler’s permanent residence.* The tag must remain with the processed fish until the fish has been consumed.

\* *The Montana non-profit corporation designated to accept paddlefish egg donations for the caviar market is authorized to transport legally tagged paddlefish donated by anglers in accordance with guidelines developed and implemented through the annual Paddlefish Roe Program MOU. Paddlefish taken on the Yellowstone River between the Burlington Northern Railroad Bridge at Glendive and the North Dakota state line and donated by anglers at the Intake FAS or at the Sidney Bridge FAS are eligible for transport by designated individuals.*

It was suggested that a note signed by the licensee granting permission for transport could be given to someone along with the fish, as is done with some big game. **Jim Kropp, FWP Enforcement Division Administrator**, noted there is a level of abuse to notes, and in the case where possession limits are different than daily limits, it would be difficult to enforce. Kropp added that if someone gives someone else a fish, then that fish automatically becomes part of the second party's limit. These regulations are different as they are specifically tagged to one individual angler.

Hagener stated that this issue was initially introduced primarily for commercial use – does the angler need to be with the fish when it is taken for processing? Hunter said commercial operations do not get treated differently than individuals, that this regulation is an attempt at consistency.

Zackhiem said creel data on Bull Trout is still being compiled, but it is anticipated that regulations will be ready for recommendation at the November meeting.

Zackheim said there have been requests to allow the use of two fishing lines on Lake Koocanusa. She said the Department is not opposed to two lines, however, an alternate time would be more suitable for consideration of this proposal. She added that the Department shares concerns regarding incidental take when the number of lines increases.

Mulligan referenced the Dead Bait section of the regulations where it says “*Cut bait is defined as having the head and entrails removed. Heads and entrails of non-game fish, except sculpin, may be used as cut or prepared bait*”. He said that does not remain consistent with the regulations as whole dead sculpin are allowed. This could cause problems as an angler may start with a whole sculpin as bait, but end up with only the head. Mulligan recommended removing that language from the regulations.

*Action: Walker moved and Brenden seconded the motion to approve the tentative 2004-2005 Fishing Regulations, with the amendment to reword the section on sculpin, and with the exceptions of the paddlefish regulations and the Warm Water Game Fish Stamp, which will be dealt with separately. Motion carried.*

Murphy asked if the possession rules would prohibit someone from taking a fish to a taxidermist and reselling it? Zackheim said it is already prohibited by statute. Kropp added that most taxidermy on fish is done with synthetic products now, and very little actual fish is utilized for mounts.

*Action: Walker moved and Brenden seconded the motion to remove that section in the proposed paddlefish rules that reads “Paddlefish must remain in the possession of the angler licensed and permitted to tag the fish until the fish has been transported to the angler’s permanent residence.” The section relative to designated non-profit organizations will remain. Motion carried.*

Hunter said the Warm Water Game Fish Stamp in the Western District would help raise money for the Ft. Peck Hatchery. The Department has been asked to stock bass, so that is being done. It would only be fair to require the warm water stamp in the Western District when the rest of the state is also required to purchase a stamp for similar circumstances. Anglers that keep Perch will definitely be required to obtain the warm water stamp as well.

*Action: Lane moved and Mulligan seconded the motion to approve the requirement of a Warm Water Game Fish Stamp for the possession of warm water fish species on Blanchard Lake, Echo Lake, Half Moon Lake, Island Lake, Loon Lake (Ferndale and Happy's Inn), Lower Thompson Lake, Murphy Lake, Savage Lake, and Spencer Lake in the Western District. Motion carried.*

*Action: Mulligan moved and Murphy seconded the motion to approve as a tentative rule the use of two fishing lines on Lake Koocanusa rather than just a single line as currently required. FWP will consult with the U.S. Fish and Wildlife Service about concerns for a potential increase in incidental take of endangered bull trout. Motion carried. Four in favor – one opposed (Brenden).*

Hunter said a lot of time has been spent with the USFWS on harvest issues of Bull Trout at Lakes Koocanusa and Hungry Horse under the Endangered Species Act, and if this passes, the Department may have to go back to them and negotiate whether or not FWP can continue that fishery. There is a chance that opportunity may be lost. Mulligan replied that if this is proposed as a tentative, arguments on both sides will be heard prior to any final action.

**10. 2004 Future Fisheries Blackfoot River Project – Final.** Chris Hunter, FWP Fisheries Division Administrator, explained that this project was tabled at the September meeting pending more information. Hunter said it is confusing from a water rights standpoint. The Department prepared a two-page document to more fully explain the project and to address questions posed by the Commission. Walker stated that his concerns are satisfied.

*Action: Walker moved and Mulligan seconded the motion to approve funding for the Potter In-Stream Flow Project as recommended by the Future Fisheries Review Panel. Motion carried. Four in favor – one opposed (Brenden).*

**11. Clark Canyon Reservoir Regulation Change – Tentative.** Chris Hunter, FWP Fisheries Division Administrator, stated that drought conditions have greatly affected the southwest portion of the state, and that Clark Canyon Reservoir is in dire straits. Emergency drought regulations reducing bag limits have been implemented for the last 3 years. Hunter said the Department's preference would be to keep the emergency regulations in place permanently until conditions improve. Final action on this tentative proposal would not be taken until the November Commission meeting.

Mulligan said this situation is serious and emergency regulations need to be retained on the Reservoir until conditions improve. He added that this water body is a native source of Burbot.

*Action: Mulligan moved and Murphy seconded the motion to approve the daily harvest limit of trout and burbot in Clark Canyon Reservoir be reduced to two, effective immediately, and that this limit reduction remain in place until the criteria for fish numbers and pool levels are met. Motion carried.*

Walker initiated discussion on the fishing regulations (page 78) relative to possession limits and transportation of fish. He feels law abiding anglers could be found in violation for a variety of reasons, such as filleting yesterday's fish to keep it fresh. Discussion ensued regarding keeping fish whole to distinguish between sauger and walleye, since there is already a regulation requiring anglers to keep the one-inch patch of skin for the same purpose, although it is nearly impossible to tell the difference between the two species from a one-inch patch of skin. Kropp said removal of this regulation would impact the ability to enforce walleye and sauger limits. Walker suggested keeping the dorsal fin for identification purposes as opposed to keeping the whole fish.

*Action: Walker moved and Brenden seconded the motion to maintain the regulation as it currently is, but to present it as a tentative to provide the public the opportunity to recommend a more efficient method. Motion carried.*

**12. Bison Hunting Decision Notice and Final Environmental Assessment – Endorsement.** **Don Childress, FWP Wildlife Division Administrator**, said Senate Bill 395 was passed by the 2003 legislature to allow the harvest of Bison that migrate out of Yellowstone National Park. The harvest season must not interfere with management efforts, must be compatible with accepted land uses, and must be "fair chase". The statute requires Fish, Wildlife & Parks and the Department of Livestock to work together sharing dual authority for all decisions made.

**Ron Aasheim, FWP Conservation Education Division Administrator**, provided history on past bison hunting. He showed a video reflecting less-than-positive media publicity, and read from national magazines that had published detailed articles and stories on the hunt as well. He noted that the situation became very ugly.

The legislature added bison to the wildlife category in 1985. In 1988, over 500 bison were killed. At that point in time, there was zero tolerance for them crossing the park boarder, there was no management plan, and no specific population goal. Over 700 bison were killed through 1990, some by Department personnel, and some by hunters accompanied by wardens.

**Pat Flowers, FWP Region 3 Supervisor**, thanked Kurt Alt, Region 3 Wildlife Manager, and Lynn Erbe for all of their hard work on the Environmental Assessment (EA). Flowers recognized Dr. Thomas Linfield, State Veterinarian, Montana Department of Livestock, with thanks for the hard work and cooperation in this difficult project.

Flowers said the draft EA was released on June 7 for public review. The comment period, ending July 9, generated 891 comments and 13 petitions. Hearings held in Bozeman, Butte, and West Yellowstone were well attended.

Flowers briefly explained the four alternatives listed in the EA. Alternative #3 is the preferred alternative.

1. The first alternative would be to remain status quo. Bison would continue to be hazed into traps or chased into areas they are tolerated, or shot by agency personnel.
2. Hunting by permit only in areas where bison are tolerated outside Yellowstone National Park (YNP) with the permit valid for the entire season. One to twenty-five permits would be issued through a lottery for the November 15 to February 15 season valid on public and private lands specifically



defined as areas where bison are seasonally tolerated outside the northern and western boundaries of YNP in the Interagency Bison Management Plan.

3. Hunting by permit in all areas outside YNP where bison from YNP may be found with the permit valid for the entire season. One to twenty-five permits would be issued through a lottery for the November 15 to February 15 season valid on public and private lands in HD 310, 313, 314, 361, and 362 where bison from the YNP population may be found outside YNP.

4. Hunting by permit in all areas outside YNP where bison from YNP may be found with permits valid for 10-day periods within a 90-day season. One to twenty-five permits would be issued through a lottery valid for 10-day periods within the November 15 through February 15 season on public and private lands in HD310, 313, 314, 361, and 362 where bison from the YNP population may be found outside YNP.

Thirteen conditions and restrictions were identified and will be applicable to all alternatives that include a public hunt.

1. Hunting will be restricted to individuals with permits issued via a drawing process similar to that employed for other special permits issued by MFWP. Hunts will not be administered via a call-up list.
2. Fee structure will follow MCA 87-2-113: \$75 for residents, \$750 for non-residents).
3. Hunters will not be allowed to harvest bison that have been vaccinated for brucellosis within the mandated withdrawal period (the time interval between vaccine administration and proven safety for meat consumption by humans). The withdrawal period for the vaccine most likely to be used, RB51, is 21 days.
4. Weapons will be limited to rifles (required by Statute 81-2-120). Rifles will be restricted to those capable of propelling bullets with sufficient force to produce a quick kill.
5. Hunting will be allowed on public land and on private land with landowner permission.
6. No bison hunting will be allowed within 100 yards of major highways in areas open to bison hunting to protect public safety and minimize traffic obstructions. This would initially include segments of Highways 20, 191, and 287 on the western boundary of Yellowstone National Park (YNP) and Highway 89 near the northern boundary of YNP. Hunting on National Forest lands will follow restrictions in USFS order 36 CFR 261.10 (d) (firearm discharges are prohibited within 150 yards of a residence, building, campsite, developed recreation site, or occupied area or across a forest service road or body of water).
7. All hunters will be advised of restrictions and special problems that might be encountered in a bison hunt near YNP in application announcements.
8. Applicants who draw permits will be provided with information on the most effective ways to kill bison and on carcass handling procedures that will minimize meat spoilage and brucellosis infections in humans.
9. If a preference system is created, hunters that apply and do not draw permits will be given preference in the same manner that preference points are awarded in other special permit hunts.
10. Initially, bison hunting will be allowed only between November 15 and February 15.
11. Bison permits will be valid in both areas open to hunting near West Yellowstone (on the western boundary of YNP) and areas near Gardiner (on the northern boundary of YNP).
12. Agencies involved in bison or land management in areas of Montana with wild bison will be informed or, in the case of MDOL (a legislatively mandated partner in bison management in Montana), consulted on changes in hunting regulations.
13. Permit numbers, hunting district boundaries, and season structure can be modified by the MFWP Commission ( *i.e.* If bison numbers in the Yellowstone herd drop below 2,500, permit number can be reduced. When bison are tolerated outside YNP in larger areas and in greater portions of the year, more permits can be issued.).

Comments were summarized into fourteen categories. Humaneness and ethics of hunting bison is of large concern. To address this concern, weapons have been restricted to center fire rifles with minimum 150 grain bullets to that will produce a quick kill. Fair chase hunting concerns have been addressed by insuring the bison are located in a large hunting area. Over 21,000 acres in the West Yellowstone Basin, over 23,000 acres in the Eagle/Bear Creek area, and nearly 100,000 acres in the Upper Gallatin drainage north to Taylor's Fork have been identified. A 3-month season has been recommended, which due to its length will promote a fair chase hunt. As required by law, Bison will be hunted on foot, and will not be shot in areas where they are being hazed.

The current Brucellosis vaccine is called RB51 and has a 21-day withdrawal period. To assure that hunters do not take animals that have been vaccinated within that 21-day period, the Department of Livestock will vaccinate for Brucellosis in late winter after the hunt. Flowers said in the Stevens Creek area, YNP has vaccinated, and will vaccinate calves and yearlings again in April after the hunt. Brucellosis is typically concentrated in lymph nodes and reproductive organs so there is virtually no risk of consuming animals infected with Brucellosis.

Another concern is the impact of the Bison hunt on the activities mandated under the Interagency Bison Management Plan. This hunt should not have any impact on those activities. Hunting will not be used as a replacement tool for population control or hazing activities that are called for under the plan.

Flowers said a signature-list petition had been received by the Department as a citizen's alternative. This alternative asked that FWP act as the sole agency responsible for managing bison in Montana, that bison be allowed access to public lands all year round outside YNP, that additional habitat be designated for bison, and that FWP cease participation in the Interagency Bison Management Plan. All four conditions are in direct conflict with the final Interagency Bison Management Plan and the associated Final EIS which is outside of the legal framework laid out in statute.

Walker opened meeting for public comment on the EA.

Glenn Hockett, President of Gallatin Wildlife Association, encouraged FWP to go slowly with this proposal. His organization is concerned about what the herd management objective is for this hunt. They feel FWP should be in charge of bison management, and Department of Livestock should manage livestock. He suggested that the Commission visit the area before making decisions.

Larry Copenhaver, Montana Wildlife Federation, said the 6,600 members feel they are a major stakeholder in Bison in Montana. They are in favor of hunting bison in general, however they oppose this hunt as they that under the present circumstances, bison are being treated as livestock and not as wildlife.

Jay Bodner, Montana Stockgrower's Association, said they support a limited bison hunt from the disease aspect. They feel FWP and the Department of Livestock have worked well together in the development of the plan, and added that the Department of Livestock is looking at the well-being of the livestock industry. They would like to see the limit raised.

Flowers said the Inter Agency Management Plan took ten years to develop. One lawsuit, which ended in a negotiated settlement, was involved. This is a very complex situation that affects the livestock industry from a disease perspective. It is a challenge for five different agencies with different concerns to agree on one set of management standards. Ultimately this was accomplished, and this plan has been working for 4 years. Meetings are still held periodically to discuss operational details.

Brenden said this is a Montana problem that needs to be solved by Montanans. His primary concern is not whether or not New York City hunters like the hunting in Montana. He feels the 1-25 harvest limit is ludicrous – that up to 1,000 head should be killed. He suggested that the National Park Service construct a fence between Montana and Yellowstone National Park if they want to manage bison. He said landowners with herds of livestock next to the Park do not want the threat of Brucellosis when bison come out of the park to find food, and they don't want the degradation to their land due to grazing. He said ordinary fencing does not hold a bison. He questioned why the Commission feels the need to be so politically correct by proposing a hunt of 1–25 head. He said “that's like doing nothing – probably we should kill 1000”, and he added that many people subscribe to that philosophy.

Brenden noted that there are two or three counties in northwestern Wyoming that have contracted Brucellosis. He stated that Montana is still a Brucellosis-free state and an outbreak of brucellosis would be devastating to the livestock industry.

Brenden said there will always be people against hunting, and because the bison is such a big animal and doesn't move as quickly as other animals, protestors do not feel it is a good game animal to hunt. There will still be protesters regardless of the number that is set.

*Action: Brenden moved to amend the limit of bison to be harvested under Alternative 3 to 25 head rather than 1-25 head.*

Murphy asked if 1-25 would be an annual number, to which Childress replied that it would. Murphy asked if it is necessary to designate a particular number. Flowers said it is necessary to determine the impacts. He said if the Commission does not concur with this decision, the Department would re-scope the issue and re-write the EA, then amend the EA to consider additional alternative. Flowers said it is important to be conservative. This hunt is not for population control. He said “if we go beyond the prescribed sideboards (1-25 head) then we need to go back to square 1.”

Walker complimented both the Department of Livestock and FWP, adding that the obligation of everyone involved is to uphold what the legislature dictates, to uphold the laws of Montana, and to implement them in the best manner possible.

*Action on Motion: Brenden withdrew his motion.*

*Action: Walker moved and Murphy seconded the motion to approve the EA as presented by the Department of Livestock and Fish, Wildlife & Parks and to move forward with a bison hunt under Alternative #3 as described in the Final Decision Notice. Murphy seconded.*

Mulligan said many people are concerned about this situation, and do not want the hunting heritage of Montana questioned. He feels FWP has done a great job, and it is important not to lose track of the legislative edicts. It is important to be conservative.

Lane asked if legislation specified the fee structure, to which he was told yes.

*Action on Motion: Motion carried.*

**13. Bison Hunting Season Setting Recommendations – Tentative. Pat Flowers, Region 3 Supervisor,** presented the proposed bison hunt season recommendations. The season is reduced this year since it is already so late. He displayed maps of the hunting areas to provide a clearer understanding of the area.

Flowers said the Department would like to add a sentence to requirement #4 relative to weapons that requires a center fire rifle and a minimum of 150 grain bullet”. Walker said he is not in favor of limiting weapons to center fire only. Flowers replied that a great deal of time had been spent deliberating this restriction with wardens and biologists who were involved with previous hunts. This recommendation is based on their experience that this, or a larger weapon, is effective. They watched shooters attempt to take a bison with lesser weapons and it was a unpleasant experience. Walker understood and agreed to leave it as recommended.

Mulligan asked why the recommendation this season is limited to only 5 either-sex bison. Flowers said they feel strongly about 5 head as it is a short season, in a smaller area, and it is a pilot effort. A conservative effort the first year is best for success. It can be built upon over the years.

*Action: Brenden moved and Lane seconded the motion to approve the tentative Bison season recommendations as proposed by the Department with the amendment to award 25 permits rather than 5 permits, and to include in the regulations that weapons must be center fire rifles with a minimum of 150 grain bullets.*

Walker recommended 10 head rather than 25. Mulligan stated that 25 head is too many. Discussion followed regarding what each Commissioner felt was the best “arbitrary” number. Hagener asked if the current boundaries are well defined, to which Flowers replied that Alt has worked on clarifying and developing boundary descriptions.

*Action on Motion: Motion carried. Three in favor (Lane, Brenden and Murphy) – two opposed (Walker and Mulligan).*

**14. Public Opportunity to Address Issues Not Discussed at this Meeting.** Nelson Wirth, stated he would like to be included on the November agenda to speak on the wolf issue.

Meeting adjourned at 3:20 p.m.

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**Dan Walker, Chairman**

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**M. Jeff Hagener, Director**